

### REMARKS

The amendment set forth above is proposed for entry as placing the application into condition for immediate allowance. Because time extension fees may be incurred if this paper is not deemed a complete response to the final rejection, the Examiner is respectfully requested to notify the Applicant's representative upon receiving this paper, using the telephone or e-mail information provided after the signature below. As will be clear in view of the remarks set forth below, after entry of the proposed amendment, amended Claim 16 is effectively the only claim still at issue, all others having been conformed to the subject matter explicitly found allowable by the Examiner. As such, the Examiner may usefully delay notification by a day or two to ascertain the allowability of Claim 16.

Claims 1-24 were pending, including five independent Claims 1, 3, 12, 16 and 20. After entry of the proposed amendment set forth above, Claims 1-19 and 22-24 are pending, including six independent claims, namely Claims 1, 3, 12, 13, 16 and 22.

No new matter is included in the present proposed amendment. The amendment primarily conforms the application to the Examiner's rejections as follows. Claims 1-11 stand allowed, and are not currently amended. Proposed amended Claim 12 is rendered allowable by incorporating into proposed amended Claim 12 the subject matter of allowable previous Claim 15, thereby also rendering Claim 14 allowable at least by virtue of properly depending from proposed amended Claim 12. Meanwhile, allowable Claims 13 and 22, which previously depended from Claim 12, have been rewritten in independent form including all the limitations of previous Claim 12, and, in the case of Claim 22, of intervening Claim 21. As such, allowable Claim 23 no longer depends on a rejected base claim. Because the subject matter of previous Claim 15 is incorporated into proposed Claim 12, such subject matter is hereby deleted from proposed amended Claim 15, which instead incorporates the limitations set forth in pending Claim 24. The Examiner deemed Claim 24 allowable in dependence on allowed Claim 1, and hence proposed amended Claim 15 is similarly believed allowable by virtue of including the limitations of Claim 24 in dependence on proposed amended Claim 12.

**Rejections:** The Examiner rejected each of Claims 12, 14, 20 and 21. The Applicant does not concede the grounds of those rejections. However, in the interest of obtaining immediate allowance of the subject application, the proposed amendment obviates each of those rejections by either canceling the rejected claim, or by incorporating into such claim a set of limitations that the Examiner has deemed allowable. Thus, Claims 1-15 and 22-24 are believed allowable in accordance with the subject matter deemed allowable by the

Examiner. Rejected Claims 20 and 21 are hereby canceled without prejudice to further prosecution on the merits.

**Claims 16-19:** Two clarifying amendments are set forth in proposed amended Claim 16. First, the term "data element" is changed to "bit" to preclude an unintended construction in which a "data element" could comprise more than one bit. As such, the Examiner's example of puncturing patterns that differ only by a "data element" that includes two bits is inapplicable to proposed amended Claim 16. The second amendment is a requirement to "puncture the data set in accordance with only two puncturing patterns, consisting of a standard puncturing pattern and an alternative puncturing pattern differing from the standard pattern only by disabling puncture of an individual bit." (The second instance of "in accordance with" in Claim 16 is rendered redundant, and is therefore hereby deleted). The prior art cited thus far by the Examiner does not include an example of two puncture patterns for concurrent use with a data set, wherein the puncture patterns differ at only one bit position. In view of the second amendment, though, the Examiner will understand that *prima facie* obviousness of proposed Claim 16 would not be established by a mere example. Instead, supporting *prima facie* obviousness of proposed amended Claim 16 would necessarily include the more demanding requirement of establishing evidence of motivation for limiting the puncturing of a data set to two such puncture patterns as required by proposed amended Claim 16.

As such, Claim 16 as proposed for amendment is respectfully submitted to be properly allowable because it is amply distinguished over the prior art. Support for the amendments to Claim 16 may be found as indicated in the Applicant's previous response, mailed 1/23/06, *i.e.*, in the Applicant's specification at page 17 lines 6-7; page 18 line 30 to page 19 line 3, and page 19 lines 11-15. Claims 17-19 are accordingly also properly allowable, at least by virtue of being dependent on Claim 16. The first instances of "comprising" and "including" are reversed only to conform to stylistic convention, and do not change the claim scope or clarity.

**Objections:** The proposed amendment set forth above resolves each of the Examiner's Claim Objections. In particular, the word "standard" is deleted from Claims 17-19 as directed by the Examiner. The proposed amendments to Claim 22 address each of the Examiner's five objections to Claims 21 and 22. One antecedent basis objection is addressed by amending "a standard puncturing pattern" in element (d) such that it properly references the "particular standard puncturing pattern" recited in element (b) of proposed Claim 22.

**VIA-011-PAP**  
**Appln. No. 09/905,529**

**Submission Date: June 23, 2006**  
**Response to Office Action of April 7, 2006**

**Conclusion**

It is respectfully submitted that entering the proposed amendment set forth above will place the subject application into condition for immediate allowance, at least for the reasons set forth in the foregoing remarks. As such, the Examiner is respectfully requested to enter the proposed amendment, and to promptly issue a Notice of Allowance of all then-pending claims.

The Commissioner is authorized to construe this paper as including a petition to extend the period for response by the number of months necessary to make this paper timely filed. Fees or deficiencies required to cause the response to be complete and timely filed may be charged, and any overpayments should be credited, to our Deposit Account No. **50-0490**.

Respectfully submitted,

6/23/2006  
Date: June 23, 2006

JAQUEZ & ASSOCIATES  
6265 Greenwich Drive, Suite 100D  
San Diego, California 92122-5916  
(858) 453-2004 (TEL)  
(858) 453-1280 (FAX)  
E-mail: [barbara@jaquez-associates.com](mailto:barbara@jaquez-associates.com)

William C. Boling  
William C. Boling  
Registration No. 41,625